

October 25, 2010

EA-10-140
NMED No. 100223

COL Norvell V. Coots
Hospital Commander
Department of the Army
Walter Reed Army Medical Center
6900 Georgia Avenue, N.W.
Washington, DC 20307-5001

SUBJECT: NOTICE OF VIOLATION - NRC Inspection Report No. 03001317/2010001

Dear Colonel Coots:

This refers to the inspection conducted by the U.S. Nuclear Regulatory Commission (NRC) on May 26, 2010 at Walter Reed Army Medical Center (WRAMC) in Washington, D.C. The purpose of the inspection was to review the reported temporary loss of control of licensed radioactive material between May 1 and 3, 2010. In addition to conducting the on-site inspection, the NRC also performed in-office reviews of additional information provided by WRAMC on June 14, July 9, 13, 16, and 22, 2010. After concluding the in-office review, the NRC discussed the findings of the inspection with Colonel John Gaal and other members of your staff by telephone on August 5, 2010. The findings were also described in the NRC inspection report issued on August 9, 2010.

On September 1, 2010, a predecisional enforcement conference (PEC) was conducted at the NRC's Region I Office with members of your staff to discuss the apparent violations identified during the inspection. In addition, the significance of the apparent violations, their root causes, and the corrective actions taken were discussed with the NRC present at the PEC. During the PEC, WRAMC agreed with the information presented in the NRC inspection report.

Based on the information developed during the inspection and information that you provided during the PEC, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

The violations involved the failure to: (1) control and maintain constant surveillance of licensed radioactive material that was in an unrestricted area and not in storage as required by 10 CFR 20.1802; and, (2) conduct operations so that the dose in any unrestricted area from external sources did not exceed 0.002 rem (0.02 millisievert) in any one hour as required by 10 CFR 20.1301(a)(2). Specifically, WRAMC improperly received and stored two packages containing licensed radioactive material after a delivery from a courier on May 1, 2010. A WRAMC contract employee accepted delivery of the packages, even though this was contrary to WRAMC training and procedures. In addition, the contract employee then stored the packages under the concierge counter in the lobby, and did not inform the expected recipient, the Administrative Officer of the Day (AOD), who was responsible for receiving and controlling the

packages, that the packages were received. On that same day, the AOD, who expected the packages to be delivered that day, but was unaware of the delivery, contacted the mail courier, which informed the AOD that if the packages had not arrived that day, they would not be delivered until Monday, May 3, 2010. As a result, WRAMC did not conduct a search for the packages until May 3, 2010, at which time they were located. When the packages were recovered, package receipt surveys were performed, and the packages were properly stored within the Nuclear Medicine Department. Upon identification, WRAMC notified the NRC Headquarters Operations Center (Event Notification 45894) of the event.

As a result of WRAMC's failure to control and maintain constant surveillance of licensed material through the improper receipt and storage of the radioactive material packages, the NRC limit on the public radiation dose in any one hour in an unrestricted area was exceeded. Although no non-radiation worker or member of the public actually received a radiation dose in excess of NRC annual limits, the NRC considered that there was a potential for such an exposure to occur. Since the violation involving the failure to maintain control of the packages led to the violation involving excess radiation levels in an unrestricted area, the NRC has categorized these violations collectively as a Severity Level (SL) III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III problem. Because WRAMC has been the subject of escalated enforcement actions within the last two years, namely, a SL III problem issued on May 22, 2009 (EA-09-039), for a previous failure to maintain control over radioactive material, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy.

The NRC concluded that credit is warranted for *identification* based on consideration of the following factors set forth in the Enforcement Policy: (1) difficulty in discovering the issue, (2) degree of licensee initiative in identifying the problem, and (3) whether prior opportunities existed to identify the problem.

Although there was a delay in identification, WRAMC exerted reasonable efforts to identify the missing packages. WRAMC initiated action to determine the status of the delivery of the packages shortly after recognizing that they were not received as expected. WRAMC contacted the mail courier, but encountered some difficulties when the courier was unable to confirm the delivery status because WRAMC did not have the packages' tracking number. WRAMC made a second attempt to determine the status of the packages with the mail courier and was informed by the carrier that no remaining packages were scheduled for delivery on May 1, 2010; and concluded that the expected packages had not been delivered. On the next business day, May 3, 2010, WRAMC was able to retrieve the packages' tracking number from the packages' supplier and determined that the packages were in fact delivered and signed by the concierge on duty two days prior. Based on this information, WRAMC was able to locate and properly store the packages. Even though WRAMC experienced a prior loss of control of radioactive licensed material event in 2008, the corrective actions taken to address that event would not have reasonably prevented the current temporary loss of control of licensed material, given the difference between the two violations. Specifically, the previous violations involved the control of radioactive material that was being utilized to treat a patient by WRAMC personnel. The violations did not involve WRAMC's handling of radioactive material package delivery, as what occurred in May 2010.

The NRC has also concluded that credit is warranted for *Corrective Action*, because WRAMC took prompt and comprehensive actions associated with this issue. Specifically, WRAMC's corrective actions included: (1) reiterating to the AOD and concierge personnel the WRAMC policy outlining who is authorized to sign for packages; (2) providing detailed instructions to all WRAMC radioactive material vendors regarding delivery of packages to WRAMC, including who is specifically allowed to sign for packages; (3) establishing a detailed procedure for tracking receipt of expected packages and steps to be taken if an expected package is not received; (4) establishing a formal written radiation safety program review and audit policy; and, (5) having an audit of its program conducted by an external organization (USA Public Health Command) in August 2010. Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SL III problem constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report No. 03001317/2010001, and in additional information provided by WRAMC on June 14, July 9, 13, 16, and 22, and September 1, 2010. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its Enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the

disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site, at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket No. 03001317
License No. 08-01738-02

Enclosure: Notice of Violation

cc: District of Columbia

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NOTICE OF VIOLATION

Walter Reed Army Medical Center (WRAMC)
Washington DC

Docket No. 03001317
License No. 08-01738-02
EA-10-140

During an NRC inspection conducted on May 26, 2010, as well as in-office reviews of additional information provided by WRAMC on June 14, July 9, 13, 16, and 22, 2010, for which a telephonic exit meeting was held on August 5, 2010, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1802 requires that the licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, between May 1 and 3, 2010, WRAMC did not control and maintain constant surveillance of two packages of licensed radioactive material that were in an unrestricted area and was not in storage. Specifically, WRAMC did not maintain constant surveillance of packages, containing licensed radioactive materials, which were placed in an unrestricted area under a counter in the concierge workstation, which was not considered a storage location.

- B. 10 CFR 20.1301 requires, in part, that each licensee shall conduct operations so that the dose in any unrestricted area from external sources does not exceed 0.002 rem (0.02 millisievert) in any one hour.

Contrary to the above, on May 1, 2010, WRAMC did not conduct operations so that the dose in any unrestricted area from external sources did not exceed 0.002 rem (0.02 millisievert) in any one hour. Specifically, two radioactive material packages were improperly stored by WRAMC personnel in an unrestricted area, resulting in a dose greater than 0.002 rem in any one hour within the first floor lobby of the WRAMC. The dose within the concierge workstation was 0.00206 rem per hour; and the dose within a walkway directly outside the concierge workstation area was 0.01878 rem per hour.

These violations are categorized collectively as one Severity Level III problem (Section 6.7).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 03001317/2010001, and in the written information provided by WRAMC on June 14, July 9, 13, 16, and 22, and September 1, 2010. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-10-140," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this day 25th of October 2010